

HOUSE BILL 534

D4

0lr1540
CF SB 867

By: **Delegates Waldstreicher, Anderson, Barnes, Benson, Carr, Carter, Dumais, Frick, Gilchrist, Gutierrez, Hecht, Hucker, Ivey, Kramer, Lee, Levi, Manno, Mizeur, Pena-Melnyk, Pendergrass, Ramirez, Rosenberg, Ross, Schuler, Simmons, Smigiel, F. Turner, V. Turner, and Valderrama**

Introduced and read first time: February 2, 2010

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2010

CHAPTER _____

1 AN ACT concerning

2 **Domestic Violence – Protective Order – Extension**

3 FOR the purpose of authorizing a ~~court~~ judge to extend the term of a protective order
4 for a certain period of time under certain circumstances; requiring the ~~court~~
5 judge to provide certain notice and a hearing before extending the term of a
6 protective order; requiring the ~~court~~ judge to consider certain factors in
7 determining the period of extension of a protective order; and generally relating
8 to an extension of a protective order.

9 BY repealing and reenacting, without amendments,
10 Article – Family Law
11 Section 4-506(i) and (j)
12 Annotated Code of Maryland
13 (2006 Replacement Volume and 2009 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Family Law
16 Section 4-507
17 Annotated Code of Maryland
18 (2006 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Family Law**

4 4–506.

5 (i) (1) Except as provided in paragraphs (2) and (3) of this subsection, all
6 relief granted in a final protective order shall be effective for the period stated in the
7 order, not to exceed 1 year.

8 (2) All relief granted in a final protective order shall be effective for
9 the period stated in the order, not to exceed 2 years if:

10 (i) the court issues a final protective order under this section
11 against a respondent on behalf of a person eligible for relief for an act of abuse
12 committed within 1 year after the date that a prior final protective order issued
13 against the same respondent on behalf of the same person eligible for relief expires;
14 and

15 (ii) the prior final protective order was issued for a period of at
16 least 6 months.

17 (3) A subsequent circuit court order pertaining to any of the provisions
18 included in the final protective order shall supersede those provisions in the final
19 protective order.

20 (j) (1) Notwithstanding any other provision of this section, the court shall
21 issue a new final protective order against an individual if:

22 (i) the individual was previously a respondent under this
23 subtitle against whom a final protective order was issued;

24 (ii) the individual was convicted and served a term of
25 imprisonment of at least 5 years under § 2–205, § 2–206, § 3–202, § 3–303, § 3–304, §
26 3–305, § 3–306, § 3–309, § 3–310, § 3–311, or § 3–312 of the Criminal Law Article for
27 the act of abuse that led to the issuance of the final protective order; and

28 (iii) the victim of the abuse who was the person eligible for relief
29 in the original final protective order requests the issuance of a new final protective
30 order.

31 (2) In a final protective order issued under this subsection, the court
32 may grant only the relief that was granted in the original protective order under
33 subsection (d)(1) or (2) of this section.

1 (3) Unless terminated at the request of the victim, a final protective
2 order issued under this subsection shall be permanent.

3 4-507.

4 (a) (1) A protective order may be modified or rescinded during the term of
5 the protective order after:

6 (i) giving notice to all affected persons eligible for relief and the
7 respondent; and

8 (ii) a hearing.

9 (2) For good cause shown, a judge may extend the term of the
10 protective order for 6 months beyond the period specified in § 4-506(i) of this subtitle,
11 after:

12 (i) giving notice to all affected persons eligible for relief and the
13 respondent; and

14 (ii) a hearing.

15 **(3) (I) ~~IF A JUDGE FINDS BY CLEAR AND CONVINCING~~**
16 **~~EVIDENCE THAT THE RESPONDENT HAS COMMITTED A SUBSEQUENT ACT OF~~**
17 **~~ABUSE AGAINST A PERSON ELIGIBLE FOR RELIEF DURING THE TERM OF A~~**
18 **~~PROTECTIVE ORDER IF, DURING THE TERM OF A PROTECTIVE ORDER, A JUDGE~~**
19 **~~FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE RESPONDENT NAMED~~**
20 **~~IN THE PROTECTIVE ORDER HAS COMMITTED A SUBSEQUENT ACT OF ABUSE~~**
21 **~~AGAINST A PERSON ELIGIBLE FOR RELIEF NAMED IN THE PROTECTIVE ORDER,~~**
22 **~~THE JUDGE MAY EXTEND THE TERM OF THE PROTECTIVE ORDER FOR A PERIOD~~**
23 **~~NOT TO EXCEED 5 2 YEARS BEYOND THE PERIOD SPECIFIED IN § 4-506(I) OF~~**
24 **~~THIS SUBTITLE FROM THE DATE THE EXTENSION IS GRANTED, AFTER:~~**

25 1. GIVING NOTICE TO ALL AFFECTED PERSONS
26 ELIGIBLE FOR RELIEF AND THE RESPONDENT; AND

27 2. A HEARING.

28 (II) IN DETERMINING THE PERIOD OF EXTENSION OF A
29 PROTECTIVE ORDER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE
30 JUDGE SHALL CONSIDER THE FOLLOWING FACTORS:

31 1. THE NATURE AND SEVERITY OF THE SUBSEQUENT
32 ACT OF ABUSE;

1 **2. THE HISTORY AND SEVERITY OF ABUSE IN THE**
2 **RELATIONSHIP BETWEEN THE RESPONDENT AND ANY PERSON ELIGIBLE FOR**
3 **RELIEF NAMED IN THE PROTECTIVE ORDER;**

4 **3. THE PENDENCY AND TYPE OF CRIMINAL CHARGES**
5 **AGAINST THE RESPONDENT; AND**

6 **4. THE NATURE AND EXTENT OF THE INJURY OR**
7 **RISK OF INJURY CAUSED BY THE RESPONDENT.**

8 (b) (1) If a District Court judge grants or denies relief under a petition
9 filed under this subtitle, a respondent, any person eligible for relief, or a petitioner
10 may appeal to the circuit court for the county where the District Court is located.

11 (2) An appeal taken under this subsection to the circuit court shall be
12 heard de novo in the circuit court.

13 (3) If an appeal is filed under this subsection, the District Court
14 judgment shall remain in effect until superseded by a judgment of the circuit court.
15 Unless the circuit court orders otherwise, modification or enforcement of the District
16 Court order shall be by the District Court.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2010.

Approved:

_____ Governor.

_____ Speaker of the House of Delegates.

_____ President of the Senate.